

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

HELEN MCROBERTS,)	
)	
Plaintiff,)	
)	CASE NO.: 1:22-1940
v.)	
)	
SHAQUILL LOGAN and FREIGHTSTAR)	
EXPEDITED LLC,)	
)	
Defendants.)	

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES AND CLERK OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA.

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1332, 1441, and 1446, removing party FREIGHTSTAR EXPEDITED LLC, by counsel, hereby files this Notice of Removal to remove the above-entitled action to this Court based upon the following supporting grounds. Removing party FREIGHTSTAR EXPEDITED LLC appearing solely for the purpose of this removal, and for no other purpose, and preserving all other defenses available to it, states as follows:

VENUE

1. Removal to the Southern District of Indiana, Indianapolis Division, is appropriate pursuant to 28 U.S.C. § 1441(a), because the Southern District of Indiana, Indianapolis Division, embraces the County of Shelby, where the action was pending prior to the filing of this Notice of Removal.

REMOVAL IS TIMELY

2. On August 15, 2022, removing party FREIGHTSTAR EXPEDITED LLC was served by certified mail with a Summons and Complaint in the above-entitled action at the offices of its registered agent for service of process in Indiana.

3. Defendant SHAQUILL LOGAN has not yet been served.

4. The case stated by the initial pleading was not removable solely because the amount in controversy was not clearly identified as exceeding the amount specified in section 28 U.S.C. §§ 1332(a).

5. On August 30, 2022, Plaintiff's counsel informed undersigned counsel that Plaintiff could not stipulate that her damages would be less than the amount in controversy specified in section 28 U.S.C. §§ 1332(a).

6. Therefore, pursuant to 28 U.S.C. §§ 1446 (b)(1), (b)(3) and (c)(3)(A), this removal is timely.

STATE COURT PROCEEDINGS

7. On August 8, 2022, Plaintiff Helen McRoberts (hereinafter "Plaintiff") filed her Complaint in the above-entitled action against Defendants in the Shelby County Circuit Court in the State of Indiana, Cause No. 73C01-2208-CT-000028, and is now pending therein.

8. On or about August 8, 2022, Plaintiff filed an Appearance of Nathan Foushee.

9. On or about August 8, 2022, Plaintiff filed Summons to Defendants.

10. On or about August 24, 2022, Plaintiff filed a Return of Service of Defendant Freightstar.

11. On or about August 31, 2022, Defendants filed an Appearance.

12. On or about August 31, 2022, Defendants filed an Initial Motion for Automatic Enlargement of Time.

13. On or about August 31, 2022, Defendants filed a Jury Demand.

14. On or about September 6, 2022, the Court granted Defendants' Motion for Enlargement of Time.

15. On or about September 23, 2022, Plaintiff filed a Motion for Pre-Trial Conference.

16. On or about September 23, 2022, Plaintiff filed a Motion for Trial Date.

17. On or about September 23, 2022, Plaintiff filed a Motion for Mediation Order.

18. On or about September 29, 2022, the Court granted Plaintiff's Motion for Pre-Trial Conference.

19. No further proceedings have been had in the Shelby County Circuit Court.

20. The state court has not ruled on Plaintiff's Motion for Mediation or Motion for Trial Date. However, these motions become moot upon removal to federal court.

DIVERSITY JURISDICTION EXISTS

21. This is a civil action that falls within the Court's original jurisdiction under 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship under 28 U.S.C. §§ 1441 and 1446.

22. Plaintiff is a citizen of the State of Indiana.

23. Defendant Freightstar Expedited, LLC is an Illinois corporation and has its principle place of business in Illinois. Because Defendant Freightstar Expedited, LLC is neither incorporated in Indiana nor has its principal place of business in Indiana, it is not a citizen of the State of Indiana for purposes of diversity jurisdiction.

24. Defendant Shaquill Logan is a citizen of the State of Georgia.

25. There is complete diversity of citizenship between the parties named in this case.

26. Plaintiff's Complaint does not demand a specific sum of monetary damages. The State of Indiana does not permit a demand for a specific sum. Therefore, this Notice of Removal states that the monetary value of the amount in controversy exceeds \$75,000, exclusive of interest and costs, based upon the following:

- a. Plaintiff claims to have sustained permanent injuries and has incurred medical expenses, physical and mental pain and suffering; lost wages; property damage; and has a diminished quality of life.
- b. On August 30, 2022, Plaintiff's counsel communicated to the undersigned that Plaintiff could not stipulate to Plaintiff's damages being less than \$75,000;

27. Based upon the injuries and damages alleged, Plaintiff seeks recovery in excess of \$75,000 exclusive of interest and costs, the value to Plaintiff of the relief sought in the Complaint exceeds \$75,000 exclusive of interest and costs, and/or the amount in controversy exceeds \$75,000 exclusive of interest and costs.

28. Therefore, this state court action is properly removed to this Court in accordance with 28 U.S.C. §§ 1441 and 1446 because: (1) this action is a civil action pending within the jurisdiction of the United States District Court for the Southern District of Indiana, Indianapolis Division; (2) this action is between citizens of different States; (3) the amount in controversy exceeds \$75,000 exclusive of interest and costs.

STATUTORY REQUIREMENTS

29. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81-2, a copy of the entire state court file is attached as an Exhibit and includes the State Court Record as of the date of this Notice of Removal, including the following: Complaint, Appearance of Nathan Foushee for Plaintiff, Summons to Shaquill Logan, Summons to Freightstar Expedited LLC, Return of Service on Freightstar, Appearance of Lesley Pfleging and Lynsey David for Defendants; Defendants' Notice

of Initial Enlargement of Time, Defendants' Jury Demand, Order Granting Motion for Enlargement of Time, Plaintiff's Motion for Mediation Order, Plaintiff's Motion for Pretrial Conference, Plaintiff's Motion for Trial Date, Order Granting Motion for Pretrial Conference

30. Pursuant to S.D. Ind. L.R. 81-2(c), a copy of the operative Complaint is also attached hereto as a separate Exhibit to this Notice of Removal.

31. A copy of this Notice of Removal has been filed in the Shelby County Circuit Court 1, and Plaintiff has been served with both this Notice of Removal and the Notice of Filing Notice of Removal.

WHEREFORE, removing party FREIGHTSTAR EXPEDITED LLC, by counsel, respectfully requests that the above-entitled action be removed from the Shelby County Circuit Court to the United States District Court for the Southern District of Indiana, Indianapolis Division.

LEWIS WAGNER, LLP

By: /s/ Lynsey F. David
LESLEY A. PFLEGING, #26857-49A
LYNSEY F. DAVID, #32594-49
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2022, a copy of the foregoing was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the court's electronic filing system. Parties may access this filing through the court's system.

Daniel Gore
KEN NUNN LAW OFFICE
104 South Franklin Road
Bloomington, IN 47404
dgore@kennunn.com
Counsel for Plaintiff

By: /s/ Lynsey F. David
LYNSEY F. DAVID

LEWIS WAGNER, LLP
Suite 102, 1411 Roosevelt Avenue
Indianapolis, IN 46201
Telephone: 317-237-0500
Facsimile: 317-630-2790
lpfleging@lewiswagner.com
ldavid@lewiswagner.com